

v. *Hart*, 14 *John*. 74; *Skinner v. White*, 17 *John*. 367. (h) The Court, on such a motion, gives credit to the answer only so far as it

(h) *BEARD v. WILLIAMS*.—In an action brought by the State for the use of the Trustees of the Poor of Anne Arundel County, upon a collector's bond, he being dead, against his sureties for not having paid over the money which had been assessed, and was collected by him for the use of the poor, a judgment was obtained in the General Court at May Term, 1796, to be released on the payment of £277 10s. 7½d. current money, with interest of ten per cent. from the 1st of October, 1790, and costs. These trustees were made a body politic by the Act of 1768, ch. 29. And the collector's bond was given under the Act of October, 1780, ch. 26. (Hanson's Laws,) by which it is provided, that, in case the collector shall fail to pay the moneys collected, his bond may be put in suit, in which proceedings may be had to compel payment of the money due with an interest of ten per cent., from the day appointed for payment, (1794, ch. 53, s. 2, a similar provision except that only six per cent. is to be recovered.) The defendants at law, Matthew Beard and others, filed this bill, alleging, that the trustees, James Williams and others, had not given to their principal, the late collector, all the credits to which he was entitled; and that the trustees had not been legally elected; and, therefore, they were neither entitled to sue for or receive the moneys collected. Whereupon they prayed an injunction, which was granted.

The defendants answered, and the case was brought on for a final hearing.

HANSON, C., 10th March, 1800.—This cause being submitted on the bill, answer and exhibits, the same were by the Chancellor read and considered.

The injunction, in this cause issued, was granted merely on the ground of the complainant's stating himself to be liable to be executed at law for much more money than was fairly due. As to the other ground stated in the bill, viz: that there was no just foundation for the judgment at law, the Chancellor long since gave his opinion, that if this be the case the complainant ought to have availed himself of the point in the General Court.

The Chancellor perceives not the least foundation for relief in this Court; except what is stated by Williams, the defendant, viz: the payment to him of £112 10s. by Mrs. Howard, &c. For this sum the complainant is certainly entitled to credit.

On the whole it is Decreed, that the injunction, in this cause issued, be and it is hereby declared to be dissolved; provided, that not more be levied by execution at law against the complainant by the defendants, than the sum of three hundred and thirty pounds fifteen shillings and eleven pence, with the legal interest of six per centum thereon, from the first day of October, seventeen hundred and ninety-six, until the time of levying or payment. It is further Decreed, that each party bear the proper costs.

In stating the account the Chancellor has charged ten per cent. interest to May 1st, 1796, as the date of the judgment. The aggregate sum is £432 9s. 8d. and six per cent. = £10 16s. 3d. is charged thereon to October 1st, 1796, when credit is given for the payment as stated by the answer of £112 10s. It is the balance with interest of six per cent. which is to be levied. It did not appear to the Chancellor, that the ten per cent. could be charged after judgment; but that whatever was due at the time of the judgment should form a principal on which six per cent. only should be charged. (*Hammond v. Hammond*, 2 Bland, 370.)

The following is the statement made by the Chancellor: